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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,182	10/05/2001	Daniel J. McCorkle	SHU1-BN42	5069

7590 04/09/2003  
PRICE, GESS & UBELL  
2100 S.E. Main St., Ste. 250  
Irvine, CA 92614

EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/972,182

Applicant(s)

MCCORKLE ET AL.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8-10, 12-19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorges (US 4,557,100).

Gorges teaches a spacer or a metallic unitary fastener insert 50 for structural sandwich panels comprising a central aperture 72, a lower flange member 68 extending radially outward from the body member or the shaft 58, a serrated outer surface of the adjacent the lower flange member, an upper rim member 66 extending upward from the body member 58 and concentric with the central aperture 72, inner annular groove 86 and having a larger inner diameter than a diameter of the central aperture with inner flange extending from the rim member to the central aperture, a height of the spacer relative to the panel predetermined thickness is such to position an upper edge 90 of the upper rim member 66 above an upper sandwich panel surface 52 adjacent the hole, a first sealing compound 92 is leak proof seal characteristic, a fastener with a seal serves as a second sealing member (figs. 2-3, col. 6, line 9).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorges (US 4,557,100) in view of Gauron (US 4,812,193).

Gorges teaches the structural elements for the spacer as stated in paragraph 2. Gorges does not teach specifically the sealing member is selected from one of a silicone resin and a thermoplastic resin. Gauron teaches inset panel fastener including a sealing resin material 68 (see col. 6, lines 24-25, 50-51). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Gorges with Gauron for the specifically resin material for sealing member. The motivation for doing so would have been to provide better bonding and waterproofing.

5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorges (US 4,557,100) in view of Gauron (US 4,812,193).

Gorges and Gauron teach the structural elements for the spacer as stated in paragraphs 2 and 4. Gorges and Gauron do not teach expressly the method of assembly the spacer into the sandwich panel, examiner considers this to be the obvious method of setting up the device of claims.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Do (US 5,093,957), Mannino (US 3,137,887), Smith (US 3,252,493), Lunde (US 6,055,790), Tritt (US 3,443,473), Campbell (US 3,526,072).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CDN  
4/1/03



Carl D. Friedman  
**Supervisory Patent Examiner**  
Group 3600